

court.

DELEGATE BLOUNT: Also, many states review their constitution upon the request of the populace every 10 years so it may be reevaluated at that time to see whether or not you would need a constitutional amendment at that particular time.

PRESIDENT CASSELL: All right, does that answer your questions?

DELEGATE ROTHSCHILD: Yes but I had two other questions.

DELEGATE BLOUNT: Delegate Eichhorn wants to respond on the same question.

DELEGATE EICHHORN: I just wanted to speak on the State Advisory Commission. There were many of us who were interested in establishing a housing court and seriously considering some sort of neighborhood court system but we did not feel that the committee had the time or the staff to research this sufficiently to develop such courts in the State Constitution and the Commission is viewed as a way of addressing those issues over a period of time with the involvement of citizens making recommendations to the legislature which they may or may not accept but also making the report available to the people who can then if they choose develop an initiative,

if that is necessary but with a foundation of information upon which they can develop recommendations for the initiative process if the legislature does not act.

Our Mayor, when he was a member of the Council, established a Tax Revision Commission which worked in the same manner and produced a rather detailed report and many of their recommendations have been enacted into law.

And we thought that this was a way to address the issue in a reasonable manner to meet both the needs of our court system and the fact that we just did not have time in 90 days to address this issue thoroughly and that anything drafted in the Constitution would lock us into a system until there was a constitutional amendment.

DELEGATE ROTHSCHILD: Thank you. Two more questions. I am concerned about the fact that we have a two-tier system. I am not necessarily for it or against it.

But did the committee thoroughly check with a lot of other states that had a two-tier system and also a three-tier system and compare -- make comparisons as to the ease with which people could take appeals?

In other words, is there a tendency in a two-tier system to close out more appeals than in the three-tier system? And what is the effect there? And what states did you

Speak to?

DELEGATE OULAHAN: We looked very carefully at the two and three-tier system, particularly at the suggestion of Delegate Mason. We drafted both provisions. The committee, I believe, made its decision based on the fact that they did not see any judicial or economic need for an intermediate court because of the budgetary and other problems involved.

However, it is quite right. Maybe years from now the -- our state may be as big as Illinois or Massachusetts or have that kind of population where the intermediate court system is used.

You find the three-tier system in the large states like New York, California, Texas where you need an intermediate system. We are nothing but a city-state with less than 700,000. We did not think it was justified.

DELEGATE BLOUNT: Also, as I recall, there were 20 states who used two-tier and 30 who used three-tier structure.

DELEGATE ROTHSCHILD: Okay, the other part of the same question was, how does that affect the ease with which you can take and appeal?

In other words, is there any effect whatsoever?
Are there less appeals taken or --?

DELEGATE BLOUNT: Obviously, it would be easier to

appeal because you only have one more step to take instead of three steps. That is why the argument is made that it would be better for people who do not have enough funds, they will not have to pay a lawyer to take the third particular step.

PRESIDENT CASSELL: Delegate Love.

DELEGATE ROTHSCHILD: Then the other question I wanted to ask --

PRESIDENT CASSELL: Let me ask you, how many more questions have you got?

DELEGATE ROTHSCHILD: I said two more awhile ago.

PRESIDENT CASSELL: All right, and this is your last question?

DELEGATE ROTHSCHILD: This is my last question.

PRESIDENT CASSELL: All right. You understand, now. We are open and allowing people to speak but the time is late and there are others. We have got a large number of time and we have to be equitable in our time, right?

DELEGATE ROTHSCHILD: The other question I had was, in regards to a review system such as in Alaska where the judge goes before the populace to be approved or disapproved after a certain number of terms in serving.

Did you check with states like Alaska as to how well that system worked?

In other words, I am concerned how much interest there was from other states in terms of getting people to come in and question them as to how well their judicial system is working and particularly in regards to that review.

DELEGATE BLOUNT: Well, there was input on all of the states and after thorough deliberations, this is what the committee decided.

DELEGATE THOMAS: Mr. Rothschild, I would like to piggyback on that question. We went to the National Center for State Courts in Williamsburg, Virginia. Our research assistant did the research for us and we got every court in the United States of America and went through each of them and this is the report -- and how they are elected.

We looked at the Alaska situation very closely and then the committee voted the way they did.

DELEGATE ROTHSCHILD: Thank you.

PRESIDENT CASSELL: All right, Delegate Love.

Before Delegate Love comes up, let me just ask you, those people who are going to have voice amendments, you know what your amendments are going to be. We would encourage you at least to write them out so that we can have them and read them and if at all possible, even duplicate them.

Delegate Love.

DELEGATE LOVE: I have two questions. The first question is, in the Legislative Committee, I moved that the legislature not be allowed to change the budget of the Judiciary Branch. And I was voted down.

Is it your feeling that the legislature should be able to turn down or turn up the legislative budget?

DELEGATE BLOUNT: Well, we stand by the position that we have in our Finance Article. However, it is up for resolve, you know. It can be resolved.

DELEGATE LOVE: My other question has to do with the strong amount of lawyers that are involved in this whole thing. As far as I can tell, aside from the fact that everybody has to be a lawyer to do almost anything, the only non-lawyers involved are in the nominating committee and only one-third of those people are lawyers since 36 of the states out of 50 have elections with the people.

So I wonder why you have so little provision for non-lawyers and why you have required so many people who are associated with the system from the top down to be lawyers?

DELEGATE BLOUNT: Well, just personally as a non-lawyer who has participated in this committee, I can have a deep appreciation for the expertise of lawyers. So I think, where appropriate, we try to include appointments that would give the people a chance to participate at the same time

maintaining a basically orthodox type of system.

DELEGATE THOMAS: I would like to speak to that, too. I got on the Judiciary Committee -- of course, I did not know anything about the law. And I wanted to know the process and I think if I had to go to court, I would want somebody who had some legal knowledge to handle my affairs.

I would not want a layman to take me into any court that don't know nothing about the laws so that is why we decided to have lawyers. Because I don't want to go there -- two laymen, both of them are the blind leading the blind and so what good is that going to do? Either for me or anybody else in that same situation.

DELEGATE JONES: I have had my hand up for a long time and you have passed over me. How is it Mr. Rothschild got to ask all those questions and I have not been able to ask any?

PRESIDENT CASSELL: Mr. Rothschild asked for the opportunity to ask several questions. Any one of us can ask as many as we like. Please [rapping for order.]

DELEGATE JONES: At what point do I get to ask two questions?

PRESIDENT CASSELL: Well, I will tell you who is yet to speak; Simmons, Coates, Nahikian and Garner. At

the end of that period, if the body wants to extend it for additional questions, it can do so.

SPEAKER: You should stop letting these people take 10 minutes.

DELEGATE BLOUNT: Some of the members of the committee want to respond to that last question.

DELEGATE EICHHORN: The issue -- is Delegate Love still in the room?

SEVERAL VOICES: He went out.

DELEGATE NAHIKIAN: The issue of the involvement or the overwhelming number of lawyers involved in the judicial system is one that I think the committee tried to address.

In my estimation, I don't think it addressed it effectively and that is because the Judicial Nominating Committee is still majority lawyers, as well as the entire Tenure Commission.

Once again, a principle that I was really interested in was the issue of how more citizens can get involved in the judicial process which I think still has to be addressed here.

DELEGATE EICHHORN: I think that we are still speaking of lawyers as though they are from outer space.

SPEAKER: They are. They are.

DELEGATE EICHHORN: And I am really not sure it is

appropriate to speak of lawyers and citizens.

Two of the lawyers on the Nominations Commission are elected by the people. When I served on the ANC, we had citizen lawyers who served on the Advisory Neighbors Commission. All of you know lawyers who are active in the community. This does not mean that we are plucking a lawyer out of the air to serve this role.

The lawyers are selected by the people in elections. They are nominated or appointed by the Governor -- not President Reagan. That is going to change. It is going to be Governor Barry or Governor Harris or Governor Ray or whomever and they are appointed by our City Council, which becomes the State Legislature.

It is a different process. I think it is going to make a difference and I think it is appropriate to ensure the role of the legal profession and people trained in the legal profession and the selection of judges.

PRESIDENT CASSELL: All right, Delegate Simmons.

DELEGATE SIMMONS: I testified before your committee. It is obvious that my testimony was not integrated into your report -- or it was considered superfluous and without value. On my own, my history of experience has been the three-tier court, elected at the general level, appointed at

the appellate level and elected at the Supreme Court level -- the state level -- has a history of being very successful and indeed, of meting out equity and having some balance.

And that balance has been demonstrated in fact that, while you are elected at the general level, there is also that appellate level which is appointed --

PRESIDENT CASSELL: Delegate, could I respectfully interrupt and remind you that you are not asking a question. It seems to be a clarification.

DELEGATE SIMMONS: Oh, I am. I am inclined to be a Walt Whitman.

PRESIDENT CASSELL: This is something that might come in later --

DELEGATE SIMMONS: Thank you. I appreciate your reminder, Mr. President. I may proceed?

PRESIDENT CASSELL: You may proceed within the question period.

DELEGATE SIMMONS: Okay. The question that I have is ostensibly a still-unanswered question. Because when I say that when we use the word "inferior", for example, we do not mean every court under the highest-level court. It is fine for the legislative history but every time a decision is to be made, they are not going to go back and research for

the legislative history so I want to know if the committee will be designing language which in fact makes that clear or if you are requesting that that be made clear by the Style and Drafting Committee?

That is one question.

The second question that I would like to ask is, do you have information -- historical backdrop that would suggest that there is empirical evidence that greater balance and equity and justice is served by having the two-tier court and that it was appointed?

Because I think we have got to understand what the power structure of every state has been in this nation and I question that the courts have applied the law with equity throughout this nation's judicial history and I wonder if maybe you are reading out of different books than I am and if you are, I would be delighted to upgrade my own knowledge with respect to this matter.

That constitutes my two questions, Mr. President.

DELEGATE BLOUNT: Unless someone wants to respond to the two questions, I would just say that the question has been answered tonight already two or three times as to why we favor the two-tier system and I believe this was supposed to be questions and answers and not debate --

DELEGATE CORN: The answer was not clear and I am not a moron.

PRESIDENT CASSELL: Delegate Corn, please. Please. Delegate Nahikian.

DELEGATE CORN: The answer was not clear and I don't care. I am not a moron.

PRESIDENT CASSELL: Delegate Corn, you are out of order. I thought you had promised to try to restrain yourself.

DELEGATE NAHIKIAN: Just in response to Barbara Lett-Simmons question on the issue of two-tier versus three-tier, the one expert that I can refer you to again is Dr. Mary Barry, who testified before the committee.

She spoke to the issue of two and three-tier systems.

VOICE: Where does she teach?

DELEGATE NAHIKIAN: She teaches at Howard University.

She spoke to the issue of the two and three-tiered system and her point was that unless there was a huge backlog at the appellate level, which to her information and certainly there to my personal information, is not a huge backlog at the appellate level.

However, at least in the District -- and that had

to do with what Delegate Oulahan said earlier.

In response to your second question about empirical evidence of quality of justice or equity of justice and elected versus appointed judges, my feeling is that there is not empirical evidence that appointed judges generally provide more equity than elected judges.

I might point out that I talked with a female black judge in the City of Philadelphia as well as judges in California and Dr. Barry said the same thing -- that when you have an appointed system, the ability of minorities and women to be judges is very slim and that is the real issue on elected versus appointed judges.

PRESIDENT CASSELL: Was there any other response to that question?

DELEGATE HARRIS: Just a footnote for Delegate Simmons and that is, Thomas Dunckenfield, who is a clerk of the Superior Court came before us and so did O'Neal Small, who is a Professor of Law at American U. and they both mentioned the fact that they did not see our system in either of the intermediate courts.

PRESIDENT CASSELL: All right, Delegate Coates.

DELEGATE COATES: I raise my question on the point of expedience, sir, such that you allowed me to ask what I

wanted to ask as another delegate has.

PRESIDENT CASSELL: I did have Delegate Nahikian do that but she is a member of the committee and when she asked to be recognized, she was sitting in the audience.

I am going to go on now to the last person who has not spoken, Delegate Garner.

DELEGATE GARNER: Thank you, Mr. President.

I have a question concerning the nature of the qualifications for judges which I consider to be the nitty-gritty of this issue and in Article -- in Section 3.11, the committee proposal lists a list of qualifications.

I would like to ask the committee why didn't they consider and why did they not adopt a provision which called for a judicial nominating committee providing public arguments as to the meritorious qualities of the individuals that they are nominating?

If we are really interested in the public being involved, our good friends from the press, the peoples' friend and the tyrant's foe, might tell us what these meritorious qualities are so we would know.

Was there some consideration of this issue?

And if so, why was it not included within the article?

DELEGATE BLOUNT: It was not proposed by any delegate but I would remind the delegate that you have the opportunity to make the amendment when the occasion arises.

Delegate Oulahan would like to speak to that.

DELEGATE OULAHAN: Delegate Garner, I do have a minority report and a recommendation to perhaps meet your problem.

DELEGATE HARRIS: Let me footnote that, Delegate Oulahan. One of the -- I think primary concerns of the committee in looking at the requirements for judicial office was to be sure that the person was involved in the District and had lived here for a considerable length of time and would not allow people to float in and out and become judges .

But I think it was the thought -- I know it was my thought in drafting this particular section that the Judicial Nomination Commission would set up its own merit criteria.

Here, we were basically concerned with, I guess, the state requirements and because we are a transient state, to be sure that the person could not come in and just become a judge.

DELEGATE GARNER: The point I am making is that this document does not in any way require that condition of publicly presenting arguments as to the meritorious quality

of the judges nominated. Is that correct?

DELEGATE HARRIS: It does not, but I am not even sure that that is needed, okay?

PRESIDENT CASSELL: Okay, we have reached the end of the question period. It was extended. We started this question period at 7:30. It is now 9:05, which was an hour and 35 minutes.

There are two people who have indicated that they want to speak again. Without objection, I am going to allow six more people and then ask that we go on to the formal debate.

The first one was Delegate Jones and then Delegate Kameny --

DELEGATE CORN: And Corn.

PRESIDENT CASSELL: And Delegate Corn. That is three more now. Delegate Jones.

DELEGATE JONES: Teresa Jones, Delegate from Ward 8.

Mr. Blount, I have three questions. The first question that I have is in 3.12, which talks about mandatory retirement at age 70 and I would like to know if the committee considered to be flexible the fact that a person might be competent and still able to work and make sound decisions at

age 70?

DELEGATE BLOUNT: Yes, we considered it.

DELEGATE JONES: Well, the next question is, why would you agree with that age 70?

DELEGATE BLOUNT: I beg your pardon?

DELEGATE JONES: What is the problem with us people 70 years old?

DELEGATE HARRIS: There was no problem with age 70. I do not think we thought that people could not function at 70 but that the court ought to attract creative young justices and that when you have sat there until 70, you ought to want to give way to some young, creative justices.

DELEGATE JONES: Wait, wait, wait, Corn.

You know, as a future member of the Grey Panthers, I think I am going to send this over to Thelma Rutherford.

DELEGATE OULAHAN: May I respond to Delegate Jones?

When judges retire at 70, they do not go out of the judicial system. They become senior judges. They are available to participate at both the Superior Court and the Supreme Court level.

It means, in effect, that retiring at 70, that you have an additional person in the judicial system to help it work.

DELEGATE JONES: Okay, I have my second question.

Did you research the history of a unified Bar in the District of Columbia? The D.C. Bar as opposed to the Washington Bar? At one point lawyers in this city, black lawyers who graduated from law school and particularly the old Terrell Law School went to the Washington Bar and because you were black -- did you all research that history?

DELEGATE BLOUNT: We had speakers from most of those organizations to come to us -- to come to the committee and to give information on the article. So yes, we did and we were aware of those instances.

DELEGATE JONES: My third question talks about these bodies that you have heavily weighted in favor of lawyers and I think that any profession, whether it be lawyers, doctors or whatever, ought to be evaluated by the consumer, because that is who he earns his money from.

I want to know [brief applause]--I want to know if you could delineate the rationale you used for heavily weighting those bodies in favor of lawyers. Because if you have any intentions of going back and reevaluating them so that the consumer will have -- so that it will be heavily-weighted in favor of the consumer.

DELEGATE BLOUNT: Well, one reason we were trying

to stay within the current system without varying too much as per the testimony of Congressman Walter Fauntroy, basically, we tried to have input from the citizens where appropriate and I can appreciate your differences -- as you can see, members of the committee had differences of opinion.

But once we voted, I was of the understanding that we would be together. However, as you can see, that is not the case.

DELEGATE JONES: Could I say one more thing?

Mr. Chairman --

PRESIDENT CASSELL: One more question?

DELEGATE JONES: Yes, a question but it is an information question. Our rules permit for issues -- even that of committee reports -- to be referred back to committee. At what point can I make that motion?

[Applause.]

DELEGATE BLOUNT: If you want to refer it to another convention, that is fine with me but I will let the Chairman respond to that.

PRESIDENT CASSELL: Let me say just that that usually applies to an on-going process. We have allowed specific times for this reading, at the end of which we hope to amend and vote.

I would hope that whatever changes need to be made, the delegates could make them during the time allotted for the dealing with each of these articles.

The next speaker is Delegate Kameny.

And then Delegate Moore, Talmadge Moore.

DELEGATE CORN: You left me out.

DELEGATE KAMENY: Thank you very much, Mr. President.

PRESIDENT CASSELL: Okay, you are in there, too.

DELEGATE KAMENY: -- for allowing me to raise some further questions for the second time around. I have a couple of closely-related questions about this with respect to one topic. These appear in Sections 3.4 and 3.5, where there is an indication of a range of numbers of judges in both courts.

You say, there shall be not more than eight associate judges. If you want to prescribe the exact number in the Constitution, fine. But if you leave a range, you have to say who decides how many it shall be. You don't say there. It's not more than eight? Suppose it ends up seven? Who decides there are seven -- or four or three or two?

And why do you want to leave an option with respect to the Supreme Court instead of saying, "The Supreme Court shall have nine judges or justices or whatever it shall be?"

The same question applies in the preceding section where you leave the rather narrow range of 45 to 48, but even within that range, if you watch Lou Grant, who decides whether it shall be 45 or 46 or 47 or 48? The Legislature? The Court itself? Or whom? Or who?

And so that I would like to know how that matter is to be decided.

PRESIDENT CASSELL: [Raps gavel.] Please. Please.

I know that the people in the back cannot hear.

DELEGATE BLOUNT: I believe the matter will be satisfied by the Legislature.

DELEGATE KAVENY: IN that case, the Constitution should say it because otherwise the Legislature -- as I read this -- has not been empowered to do so.

DELEGATE BLOUNT: Your point may be appropriate that it may have to be inserted.

DELEGATE THOMAS: Do you want to make the motion?

DELEGATE KAVENY: Well, I have another question about that but I will leave that for the present. Thank you.

PRESIDENT CASSELL: Delegate Corn.

DELEGATE CORN: I am still a little confused and I would like the Chair -- Chair Blount to respond to me. Does "en banc" mean one panel of all the judges or two panels?

DELEGATE BLOUNT: I am not responding to the question.

DELEGATE CORN: Why not?

DELEGATE BLOUNT: I have already responded.

DELEGATE CORN: Well, somebody said two and then somebody said one and I still don't understand which is it.

DELEGATE BALDWIN: It is all the judges.

DELEGATE CORN: Okay, it is one panel.

DELEGATE BALDWIN: No, I did not say one panel. I said all the judges.

DELEGATE CORN: So that would be all nine of them if there were nine. Okay.

On page one, lines three and four, when you talk about "such inferior courts as may from time to time be established," you have clearly stated that you did not mean an intermediate or appellate court.

Did you mean neighborhood courts? What did you mean by that?

DELEGATE BLOUNT: Yes. It says, "neighborhood courts," "peoples' courts," those types of courts that would be established.

DELEGATE CORN: Okay. And the last thing is, when you said that what you tried to --

SPEAKER: Point of order, Mr. Chairman. We cannot hear.

PRESIDENT CASSELL: Delegate Corn, take the mic and see if you can make everybody hear it and get a response.

[Brief section where speakers off the record make comments and Delegate Corn raps on podium.]

PRESIDENT CASSELL: Delegate Corn.

DELEGATE CORN: Okay, and the last thing is, when you said that one of the things you tried to address here -- one of the problems you tried to address in the current judicial system is the caseload and yet you are leaving the amount on page 2 -- you are leaving the amount of the judges of the Supreme Court the same as they are now and you are saying that at the Superior Court level you cannot increase it more than three people.

How do you feel you have addressed the problem of the caseload? I know this, once when I filed a caseload it took nine months until that suit came to court. If that is considered a quick hearing, I can't believe what would be considered a slow hearing.

DELEGATE BLOUNT: The feeling is that the more judges you have, the faster you will be able to hear the case load and reduce the case load thereby reducing the number

of cases that have to be appealed.

DELEGATE CORN: Yes, but if you kept the same number of judges, how have you created more judges so cases can be heard more quickly?

DELEGATE BLOUNT: You are debating. I answered the question and I am not going to debate it.

DELEGATE CORN: Let me ask you one more thing. And then I am done. It seems to me I have to bring up the same question, that you have limited this number from 45 to 48 for the Superior Court. You have not addressed the question -- it seems to me you have not addressed the question of whether this number of judges should be increased or decreased according to the size of the population of this state.

If the state, for instance, goes up to 2 million people, it is logical that there will be many, many more law suits. If the population of the state drops to 400,000 people, theoretically, there should be a lot less court suits.

Therefore, it seems to me somewhere -- did you ever address it and if not, why not, the idea of tying the population into the number of judges?

DELEGATE BLOUNT: We thoroughly discussed the issue. We decided that what we had was appropriate.

VOICE: Let's go.

DELEGATE HARRIS: I just want to speak as a member of the committee. Number one is, there seems to be very little respect of the committee.

[Several voices: Point of order. Point of order.]

DELEGATE HARRIS: No, this is a point of order here. This is a point of order here.

DELEGATE TALMADGE MOORE: No, no, he indicated that I would be the next to address the assembly.

DELEGATE BALDWIN: Mr. Moore, this is a member of the committee speaking.

DELEGATE HARRIS: I am speaking as a member of the committee because it seems like a large percentage of the Convention Delegates are either outside or in the back.

And maybe I ought to set the record straight. I have, in my possession --

[Continuing outcries from the Floor -- Point of Order, Point of Order.]

-- a copy of all the votes that were taken on each of the articles and out of the eight regular members that we have on the committee, at all times, on each one of the articles that you have before you, six persons voted for -- sometimes one abstained and one did not vote.

So those people who are floating in and out as if

they are not members of the committee, supported what you have before you and those of us who are here are not sure what is going on with the rest of the committee members.

And I thought for clarification you might need to know that, because that question has been asked of several of us -- "Are the other members of the committee supportive of what is before us?"

Yes, they are and they were in committee and I have those votes up here in case you are interested as to who supported what. Although there are two minority reports floating.

DELEGATE CORN: That doesn't answer my question.

DELEGATE HARRIS: I am not trying to answer your question, okay?

DELEGATE CORN: Well, I would like to have my question answered. My question was --

DELEGATE BALDWIN: Mrs. Corn, you are out of order.

DELEGATE CORN: Sir, my question is not --

DELEGATE BALDWIN: No, no, you are out of order --

DELEGATE CORN: Her answer is not responsive.

Was the question of population ever tied to the number of judges? Yes or no?

MANY VOICES: Sit down. You are out of order.

DELEGATE BLOUNT: Yes. Yes, yes, yes.

DELEGATE BALDWIN: Mr. Moore.

DELEGATE TALMADGE MOORE: Mr. Chairman, could I speak now?

DELEGATE BALDWIN: Yes, you may.

DELEGATE TALMADGE MOORE: I have one question and I want to address it to Chairman Blount.

Could you indicate in your document as to how this document will alleviate the tremendous backlog of cases prevalent in the District of Columbia with only a few increases of judges?

Additionally, it appears to me that we have only the present structure that we have here now relative to the justices and I would just like this committee to point out to me as to how we are going to alleviate the tremendous amount of cases that we have as a backlog in our courts in the District of Columbia.

DELEGATE BLOUNT: Which court are you referring to?

DELEGATE TALMADGE MOORE: I am referring to the entire docket system.

DELEGATE BLOUNT: By increasing the judges by one, you would have more judges to hear the current case load which would reduce it somewhat.

Now, if you feel that there should be more, then

I would suggest, as I suggested before, that you make an amendment.

But this is what the committee decided.

The committee felt it was appropriate.

DELEGATE TALMADGE MOORE: Do you have anything in the structure that would mean it could alleviate this problem? I don't mean the increase of the judge. I mean, in your present structure that you have, that is going to alleviate the problem that we have in the District of Columbia which will eventually become the State of Columbia.

DELEGATE BLOUNT: Other than what I have stated, no.

PRESIDENT CASSELL: All right, we have heard the last of the questions. We are now moving into the formal debate.

Prior to that, there is a minority report, which the Secretary advises me was submitted in a timely fashion, regarding the rules of the Convention. And that is to be presented by Delegate Brian Moore.

It does not have the same status as a majority report. I would ask him to be as brief as possible.

[Side discussion with committee about minority report.]

PRESIDENT CASSELL: Let me remind everybody, especially some of our guests who may not have been here before and not know the rule, that there is no smoking permitted in this room. This is the D.C. law. This is also the University's law and this is their space that we occupy. So let me ask you please to go outside if you must smoke.

Delegate Jackson.

DELEGATE JACKSON: Mr. Chairman, I move for a ten-minute break, at the termination of which time the Secretary could clear the halls and we could start.

PRESIDENT CASSELL: Is there a second to that motion?

[A motion is made and seconded several times.]

PRESIDENT CASSELL: It has been moved and seconded that there is a ten-minute recess. Any discussion on that motion?

Delegate Jones? Delegate Feely? Discussion on the motion. [Raps gavel for order.] We are having a discussion on the motion for a recess, a ten-minute recess. We ought to be able to handle that expeditiously and quickly, don't you?

DELEGATE JONES: I would like to make a substitute motion according to Rule 3.3, section 4, paragraph B which states that during consideration of a proposed article during

first and second readings, the President may recess the convention for a period of five to 30 minutes and I would like to substitute --

PRESIDENT CASSELL: Go on and read the rest of that, please.

DELEGATE JONES: During this time, delegates may consult with the substantive committees, consolidate similar amendments, prepare amendments in suitable form or agree among themselves on the order in which they wish amendments considered and I am moving for 30 minutes.

SPEAKER: Second.

[A substitute motion is made and seconded.]

PRESIDENT CASSELL: All right, it has just been pointed out to us in the rules that a motion to recess is undebateable.

Is there -- Delegate Jones, I just discovered that a motion to recess is undebateable.

Those in favor of recessing for ten minutes signify

DELEGATE CORN: Thirty minutes.

PRESIDENT CASSELL: No, no.

Signify by saying aye.

[There is a chorus of ayes.]

DELEGATE JONES: Point of order, Mr. Chairman.

There is no 10-minute rule that I can find and I have read the rules --

PRESIDENT CASSELL: The rule that you just read says five to 30 minutes. I assume --

SEVERAL VOICES: So make it 30 minutes.

[Much side-discussion.]

PRESIDENT CASSELL: There is a motion on the Floor now. Those in favor of recessing for 10 minutes, signify by saying aye.

[There is a chorus of ayes.]

PRESIDENT CASSELL: Those opposed.

[There is a chorus of nays.]

PRESIDENT CASSELL: Those in favor of recessing -- let me ask you, now, can we recess for five minutes?

[A chorus of "no."]

PRESIDENT CASSELL: We are about to start on the formal debate. We have been sitting for quite some time.

I hope that I do not antagonize the Delegates too much but the President is going to declare a 10-minute break inasmuch as we have been sitting now for almost two hours and we have got a lot of formal debate ahead of us.

Let us come back, please, at 9:38.

[Whereupon, a recess is taken from 9:28 o'clock p.m. to 10:30 o'clock p.m.]

PRESIDENT CASSELL: May we reconvene?

Will the Convention come back to order so we can continue?

The next order of business is the Minority Report by Delegate Brian Moore.

Please, may we take our seats and reconvene?

[Call repeated several times.]

Delegate Blount.

Please, the hour is getting late. We want to complete our reports tonight. Delegate Blount.

DELEGATE BLOUNT: Mr. Chairman, I move that 3.1 Judicial Power of the Judiciary Article [be accepted.]

PRESIDENT CASSELL: It has been moved and seconded, ladies and gentlemen, it has been moved and seconded that the Chapter 3 as read to you by the -- 3.1 as read to you by the committee be adopted.

Discussion.

[Inaudible question, from doorway.]

PRESIDENT CASSELL: The rules indicate that a minority report may be made as an amendment or in substantive and that can be done in the course of voting on it. You have got to have something to react to.

SPEAKER: But that eliminates them.

PRESIDENT CASSELL: No, they are not eliminated. They have a chance during the discussion.

SPEAKER: Should it be as an amendment?

PRESIDENT CASSELL: An amendment or a substitute or anything they desire. The minority proposal may then be offered on the floor as an amendment to or substitute for the committee proposal.

Okay, Delegate Moore.

DELEGATE BRIAN MOORE: Yes, a point of order, first of all, before I make my amendment to the motion and that is that I was under the impression, too, that minority reports had more weight in this convention.

According to the rules, it limits it to an amendment on the floor after a motion is made but it really -- I am very disappointed because I had that impression and I think a lot of other delegates have the impression that minority reports were allowed time to make presentation with some discussion. But we have got to go by the rules.

PRESIDENT CASSELL: Yes. We are asking that you limit that to ten minutes if at all possible.

DELEGATE BRIAN MOORE: Thank you. I will try to do that, Mr. Chairman. I move to amend the motion by submitting this substitute proposal on the judiciary.

[The motion is made.]

DELEGATE BRIAN MOORE: I need a second.

PRESIDENT CASSELL: Is there a second?

[There is a second.]

PRESIDENT CASSELL: All right, it has been moved and seconded that a substitute proposal from Brian Moore be voted upon as opposed to the original.

Would you care to speak to your motion?

DELEGATE BRIAN MOORE: [Inaudible.]

All right, I will read it from here. The Home Rule. I will go briefly over it and how they set up the judicial system.

If you will see over there, the first sheet of paper, the court system is set up -- is made up of a Court of Appeals and a Superior Court with provisions for the D.C. Courts. You have 44 judges and then nine -- or eight plus one under the Superior.

The Judicial Nominating Commission qualifications require that you have all lawyers, U.S. citizens, D.C. residents for 90 days and you are not a government employee in either the legislature or the executive branch.

The Judicial Nominating Commission is appointed by the following people:

The President appoints one, the D.C. Bar two -- which are lawyers, the Mayor two -- which is one lawyer and a layman -- the City Council has one lay appointee. And the Chief Judge can appoint one retired judge, for a total of seven members which are four lawyers, two laymen and the President's choice, which could possibly be another lawyer.

If that is the case you have got five lawyers and two laymen.

Six year terms staggered. No residency requirements. No compensation. And the selection of judges is as follows:

The Judicial Nominating Commission selects three candidates for either a justice position on the Supreme Court or a judge position on the Superior Court. The President then nominates one of these candidates and the Senate confirms them for a 15-year term.

Moving over to the second page of the Home Rule, the Tenure Commission is another body in the judicial system presently and the members of the Tenure Commission are 7 people and they must be U.S. citizens, D.C. residents for 90 days and not government employees in either the legislative or the executive branch.

And their break-down is basically four lawyers

and three laymen with the same people appointing here as appointing under the Judicial Nominating Commission.

Reappointment -- the judge files for reappointment at the end of his 15-year term. The Tenure Commission basically evaluates and then recommends to the President who then nominates again and the Senate confirms.

Administratively, the Chief Justice of the Supreme Court decides on administrative heads, assigns the judges and justices and then appoints the administrative director and the funding comes through his direction as well.

Moving over to the majority report, the only difference -- or the differences between the majority report of this committee and Home Rule is as follows:

They have installed an inferior court. Their Supreme Court is made up of nine individuals. The Appeals was like, eight plus one plus four retired.

The Judicial Nominating Commission qualifications, they require one year as opposed to 90 days. They also require that the candidates not be involved in politics.

The Judicial Nominating Commission's are appointed by almost the same groups except that the Governor can appoint two as opposed to the President appointing one. The D.C. Bar can appoint one as opposed to appointing two under Home Rule.

And now they have included the voters can elect three laymen and they can elect three lawyers. So you have a total of nine members which is an increase of two members. You have five lawyers and four laymen which is an increase of one lawyer but an increase of about three laymen.

Selection is the same except that the tenure is different. The tenure for this is ten years for Superior Court, 12 years for Supreme Court, as opposed to 15 years.

It is basically the same over the Tenure Commission reappointment administration, et cetera, except that they appointed a State Judicial Advisory Commission which will take three years to establish and then they will serve for two years so that at the end of five years they will make a recommendation to the legislature and then the legislature can either act or not act and that panel is appointed by the Governor, the legislature, the D.C. Bar and the Chief Justice, basically, the participants in the judicial system right now. And non-laymen.

My report recommends the following, that we have a three-tier system as opposed to a two-tier, it be composed of a Supreme Court, a Superior Court and neighborhood courts.

The Supreme Court is reduced from nine down to five and there is a lot of data -- background on that

indicating that the majority of states either have seven members or even five members and there are like eight or nine states that have nine members.

With our population size and geographics, it is incomprehensible to me why we would have nine Supreme Court Judges.

The neighborhood court system basically would deal with minor individual problems such as domiciles, juvenile problems, vandalism and things like that; tenant-landlord questions, transportation such as parking problems and even, possibly, into the area of drunk driving.

Now, that is a delicate area but communities can participate in that area as well and in small claims. The more serious problems of those areas would go up to the Supreme Court.

The neighborhood court decisions would be final -- final in the sense that it is not automatic appeal. If you want to appeal, you can but you have to go through a formal process.

Appeals would go to a panel who arbitrated. This panel would be composed of judges from the Superior Court who would periodically come down to the neighborhood or remain in their courts for the people to come there.

The composition of the neighborhood court would consist of local citizens only, whether they be attorneys or laymen -- it is up to the community and they would be annually elected and they would sit on that panel and judge cases, probably at nights and on weekends.

The Judicial Commission qualifications would be a little bit different if lawyers on our Commission and from the neighborhood commission sat -- I think that they should have --

Excuse me, I made a jump here. I am shifting out of the neighborhood court composition and now I am going to the Judicial Commission.

All right, the Judicial Commission qualifications will consist of attorneys and laymen. They must be citizens. They must be residents of the District for five years -- not involved in politics and only three members of the seven-member commission can come from the same political party so you would have, probably, three Democrats, three Republicans and an Independent or whatever, or Statehood.

Two terms only, six years staggered. This Judicial Commission -- excuse me, it is not a Nominating Commission because I combined those nominations, selection and tenure into this commission, and also administration.

This Judicial Commission would be appointed by

or that is to say, it would consist of seven members and they would be selected by the Governor and he would have one choice. The legislature would have one choice. The D.C. Bar one choice.

The D.C. Federation of Civic Associations would have two choices and the voters would elect two. So that would be seven members, four laymen and three lawyers. So that lay people would predominate on this commission.

And one of the lawyers would be elected by the community or by the voters.

Six-year terms staggered, residence, again, is increased from one year to five years. I think , if we are going to give more power to the layman, we should also make sure that the lawyer -- that five-year residence applies both to the lawyer and the layman.

Compensation would be given to this commission. They would be paid on either a part-time or a full-time basis, whatever is needed and their prime function would be the appointment of the justices and judges.

All right? They would not nominate to any Governor or any legislative body. They would select the judges. They would decide the terms -- excuse me.

They would decide the cases of tenure, removal and impeachment and that their term would be for life. The judges

could be removed, of course, by the standard procedures of removal, tenure, questions and impeachment which could be done by the Judicial Commission.

Laymen may be selected as justices and judges.

It is in the Home Rule that you cannot be a -- you must be a lawyer to be a judge. But in the U. S. Constitution there is no restriction against laymen being judges.

PRESIDENT CASSELL: One minute, Mr. Moore.

DELEGATE BRIAN MOORE: In fact, right in this day and age the need for technical expertise such as engineers, doctors, is more prevalent now in our court system than before and they would broaden the perspective of the courts and probably provide a much better balance of decision-making.

The courts could be administered by this commission. They could assign the justices and appoint the administrative director and they would make and promulgate all the rules and policies; they, in a sense, would control the courts.

That would be a balance of lay people and attorneys.

And the main themes, in conclusion, are, the reason for this commission and the reason for a reduction in attorneys is because of cost efficiency, time efficiency, common sense, citizen participation, to reduce the sense of common man's alienation from the government judicial system and it would give him an opportunity to have a feeling that he can control

his life once again, rekindle a belief in the justice and fairness of our society which is lost among many Americans right now because of that system, allow the common man to share in applying justice and seeing it happen in a reasonable amount of time, reduce the politics from the judicial system, strengthen the independence of the courts from both the legislative and executive branches.

We do not have a separation of powers now. We have a --

PRESIDENT CASSELL: Delegate Moore, your time is up now.

DELEGATE BRIAN MOORE: Okay. And the last ideas are, reduce case loads, broaden perspective and restore respect and reliance not only on citizens but even on attorneys and the judges who have suffered because of this system.

PRESIDENT CASSELL: Thank you. Discussion.

Chestie Graham. Delegate Baldwin --

DELEGATE GRAHAM: Delegate Moore, I would like to question you about 3.14. I noticed that you was talking about the people who were going to be appointed and you came down and said "These federations of cities' associations" but you did not say anything about local government people.

DELEGATE BRIAN MOORE: Local government people?

DELEGATE GRAHAM: Local government or ANC if we still have ANC.

DELEGATE BRIAN MOORE: Yes, I understand we will have ANC's.

DELEGATE GRAHAM: Well, what if we have -- aren't we proposing something in place of the ANC's and they are not going to have any authority in doing that at all.

DELEGATE BRIAN MOORE: Well, it don't know if it will be called ANC's but these associations, you can replace them.

If I understand your question correctly, it was a lay group -- official organization in the city that could participate -- that was an umbrella organization that represented many active citizens.

DELEGATE GRAHAM: [Inaudible] Federal of Civic Associations more recognition than they gave the ANC.

DELEGATE BRIAN MOORE: Yes.

Okay. I have a proposal in local government, too, that will answer part of that and also, there are other proposals in local government that gave less power to the ANC's.

But I think the idea of ANC --

DELEGATE GRAHAM: [Overriding and inaudible.]

DELEGATE HARRIS: Delegate Brian Moore --

DELEGATE BRIAN MOORE: Yes.

DELEGATE HARRIS: She raised the point about 3.14?

DELEGATE BRIAN MOORE: Yes.

DELEGATE HARRIS: On 3.14, Commission membership, in the committee you supported what is before the delegates at this time and I am just wondering what are you now recommending that is in contradiction to what we have in front of us here.

DELEGATE BRIAN MOORE: Could you repeat the question?

DELEGATE HARRIS: My question on 3.14 Commission membership is that in committee, you supported what is being presented by the committee.

DELEGATE BRIAN MOORE: Yes.

DELEGATE HARRIS: I am just asking what is different? I can't see all your charts.

DELEGATE BRIAN MOORE: Yes, right.

DELEGATE HARRIS: So what is different now than what is before us?

DELEGATE BRIAN MOORE: Well, it is just a difference in numbers and -- well, it is difference in numbers and then they are complicated as well.

Your question is only the make-up? There is a

lot of similarity there.

The difference is in their function.

Did I answer your question, Delegate Harris?

DELEGATE HARRIS: Yes.

PRESIDENT CASSELL: Delegate Talmadge Moore and Delegate Baldwin. I beg your pardon. Delegate Baldwin.

DELEGATE BALDWIN: Mr. President, I rise to speak to a point of order. My point of order is that we are in violation of our rules in receiving a report of a minority proposal.

Now, I want you to follow me very carefully.

Our rules state that a minority proposal must be brought to the Floor either as an amendment or a substitute proposal -- either as an amendment to the original, which came from the committee -- or a substitute proposal.

Our rules do not allow for a minority proposal to be discussed as a report. And that is what he is doing. He is discussing it as a report.

The proper procedure should be, as Mr. Blount started out, to ask for adoption of his first section, which would be Section 3.1 and Mr. Moore has, in fact, a complete substitute.

What he should do at that time in the preamble is

move the substitute or to amend 3.1 and then insert what he has. Then the body can either vote it up or down and move on.

But he has given us a report and some questions and answers regarding his proposal and this has just gone on and on and on. So my point of order is that we are not following our rules.

PRESIDENT CASSELL: We discussed the method of bringing this minority report before. We agreed that we would introduce this as an amendment or a substitute for the committee proposal. This would be after the motion was made to adopt the committee's proposal itself.

Now, as the Chair sees it, he has made his motion. He is now speaking to his motion. It is a rather lengthy one and we agreed that he could have 10 minutes to do so, inasmuch as it is a minority proposal and it was submitted at the same time as the regular proposal and should be allowed to precede other amendments.

Now, if there is anything, you know, improper in the way he introduced it -- I thought he introduced that as a substitute. The Chair erred in calling it an amendment.

DELEGATE BALDWIN: It is a substantive proposal. And what he has done, Mr. President, is he is presenting his whole proposal. This body will not accept the proposal as

such. Mr. Blount started off -- and rightly so -- with the proposal section by section.

So he can't bring in a substitute proposal and ask us to accept it. It has to be voted on section by section. And I repeat again that the proper way to do this is for Mr. Blount to start with Section 3.1, ask for the adoption.

Then Mr. Moore is supposed to then say -- raise his hand and say either, "I want to amend it" or "I offer a substitute, can we vote on it up or down?" and then we can procede right through the proposal.

What will happen now as he goes through this is that it will take him another hour and in the first place, this is out of order.

So what are you really voting on? Are you voting on his proposal? What are we really doing?

It either has to be an amendment or his substitute proposal.

Mr. Moore, what do you call it?

DELEGATE BRIAN MOORE: I am not sure. It is a -- I don't want to back myself in a corner here.

DELEGATE BALDWIN: Let me ask you something. In your proposal, you have 21 sections. The committee has 21 sections. If you start in an orderly fashion and take this

section by section and you amend it right down the line and you go right through.

DELEGATE BRIAN MOORE: Yes. But the problem is that my system is so much different that if you did it item by item, it would not be coherent, and --

DELEGATE BALDWIN: Well, that is how the Rules say it should be done.

DELEGATE BRIAN MOORE: -- so, therefore, it would seem to me the best way to deal with this would be to break my motion up serriatim and then address it in that manner.

Therefore, we would properly and legally, according to your rules, go by the rules.

DELEGATE BALDWIN: Suppose you break yours up and then we, in fact, vote on it and accept it. What would happen when he gets ready to break his up?

DELEGATE BRIAN MOORE: Wouldn't that be a separate motion and replace the original motion?

DELEGATE BALDWIN: That is right. The rules would allow that.

So I would suggest, Mr. President, that we follow the rules.

DELEGATE HARRIS: I second it.

PRESIDENT CASSELL: Okay, I am going to ask for

a Parliamentary ruling by the person serving as Parliamentarian tonight.

Let me state once more how we are operating.

A person has a right to bring to the Floor a minority proposal. A minority proposal has been brought to the Floor. There is no question about that.

Now, the next question is, is it an amendment to the motion already on the floor, which is a complete proposal or is it a substitute for the committee proposal?

If it is a substitute for the committee proposal and voted up or down, then the committee proposal dies. It has been substituted. Okay.

That would obviate the need to do anything further on the original motion.

If it is an amendment, then what is being offered now is a new proposal, not an amendment and that can be called either a substitute proposal or another proposal.

Okay. So I believe that you introduced this as an amendment to the motion.

DELEGATE BRIAN MOORE: That is correct.

PRESIDENT CASSELL: Therefore, what you are giving us is not an amendment. What you are giving us is a substitute proposal.

DELEGATE BRIAN MOORE: Okay.

PRESIDENT CASSELL: What is on the floor is an amendment. But what you are doing is giving a complete substitution. If this should be voted up.

DELEGATE BRIAN MOORE: That is right.

PRESIDENT CASSELL: Then the original motion would die. So I have to rule this out of order as an amendment and the only way this can come is as a substitute. Right?

DELEGATE BRIAN MOORE: All right. Yes. Then I move that it be a substitute motion to the -- a substitute proposal to the motion on the floor.

[President rapping for order.]

DELEGATE BALDWIN: Mr. President, it is very clear. You can't offer this as an amended motion or a substitute motion the only way someone has presented something. You can't start something additional just by calling it a substitute.

You have to start with Mr. Blount's 3.1 and you have a substitute for it. Yours is that instead of having unified [inaudible] there should be three and you rule out the words "inferior court."

That is, in fact, a substitute for 3.1 and yours has to be voted on first prior to his.

So what the Chair should be receiving is your substitute to Section 3.1. When that has been voted either up

or down, then we should go on to 3.2. We should not read 3.2 first.

DELEGATE BRIAN MOORE: All right.

DELEGATE BALDWIN: You cannot say it is a substitute motion. You are substituting it for what? It can only be a substitute for one section and that is 3 point what?

You are trying to substitute for that one section a whole proposal.

DELEGATE GARNER: Point of order, Mr. Chairman.

PRESIDENT CASSELL: Point of order.

DELEGATE GARNER: What is the ruling of the Chair? Can an amendment be made through a motion which is a complete revision of the motion on the floor? Is that legal under our rules?

PRESIDENT CASSELL: The Chair has not made a ruling yet. The Chair is listening to discussion.

DELEGATE GARNER: If the Chairman has not made a ruling, would the Chairman read the section of the rules pertaining to further reading of a proposed article?

PRESIDENT CASSELL: Yes, let me have the --
[receiving the Rules book.]

SEVERAL VOICES: Point of order. Point of information.

PRESIDENT CASSELL: Let me respond to the request to read the rule that obtains.

"Minority proposals." This is Rule 3.2, chapter 3 of our Rules.

"One or more members of a committee may report a minority proposal." That has been done.

"B) Minority proposals shall be submitted to the committee chair within 24 hours of the adoption of the committee report." The Secretary says that that has been done.

"C) If delivered on time, minority proposals shall be transmitted to the President along with the committee proposal and shall accompany the committee proposal thereafter." The Secretary indicates that the timeliness of that proposal was within that 24-hour period.

"D) The minority proposal may then be offered on the Floor as an amendment to or substitute for the committee proposal."

Okay. Now, my recollection is that this was introduced as an amendment to. I must say to you that Brian Moore spoke to me and spoke to others prior to this, asking for an opportunity to make his minority report and asked for the best way to do that.

There was an agreement that he would make his

offer as an amendment or a substitute after the committee had made its report.

He chose, apparently, to make it as an amendment. As an amendment, I would rule that it is out of order. I would, however, rule that if it is a substitute for the entire proposal, that that is in order. On any occasion, one can make a motion to substitute anything for something that is on the floor.

It received a second. He continued to speak.

The difficulty is that he did not make a substitute motion and I think that what the Vice President is indicating is that he is presenting what is actually a substitute motion for what was called an "amended motion."

Therefore, I shall have to rule that your amendment is out of order. That is not what is on the floor.

Now, let me consult with the Parliamentarian again about how we can deal with where you are right now.

Delegate Blount, could you come to the desk here a minute?

[Bench conference.]

PRESIDENT CASSELL: I think we are getting near a solution. Delegate Moore --

SEVERAL VOICES: [Make inquiry as to what is going on.]

PRESIDENT CASSELL: All right, let me respond to the Delegates. What is happening is that Delegate Blount had moved for the adoption of a portion of his report, Section 3.1.

What the substitute, if we accept that as a substitute -- or let us say, what was attempted to do was to substitute an entire minority proposal for a section of the original proposal.

Delegate Blount is now going to withdraw his motion and move for the adoption of his whole report which would facilitate the moving of a minority report which is a whole also.

Is that acceptable to you, Delegate Blount?

DELEGATE BLOUNT: Yes.

PRESIDENT CASSELL: Okay.

DELEGATE EICHHORN: Point of information.

PRESIDENT CASSELL: Yes.

DELEGATE EICHHORN: Mr. President, I understand the need for a minority report. I appreciate the need to allow persons who have a minority point of view to express themselves. But what we are doing today is developing a procedure whereby one person who receives one vote in committee for a proposal is given an opportunity to spend ten minutes making a report which we would then go through section by

section and I really wonder if that is how we want to proceed?

Mr. Blount moved the entire report and we then proceeded to go through it section by section and Mr. Moore moved his entire substitute proposal. We will go through that section by section? Is that what this ruling means?

PRESIDENT CASSELL: Well, it seems to me --

DELEGATE EICHHORN: That is what Mr. Moore was asking to do, was to go through it ad seriatim.

PRESIDENT CASSELL: All right, Delegate Eichhorn, you have made an interest point. You have made a very valid point. This could be very, very time-consuming.

However, the Chair is not aware of any way of avoiding that time-consuming process inasmuch as there is such a thing as a minority proposal and the person has a right to introduce it.

Now, he is about to introduce a substitute motion to adopt his minority proposal as a whole. Anybody could have the right, also, to ask to take it section by section but I do not know of a way within our rules around that, except that we would ask the delegates to cooperate in not obstructing the long work of the committees.

DELEGATE HARRIS: Mr. Chairman, it seems to me that if the committee has been hours and weeks working on its

report -- and I think every committee here would probably feel the same way -- and they come to the forefront to bring the committee's report, then any member who has a minority report or to amend each section as it is presented by the committee, the committee ought to be given deference to presenting its article first and then all the amendments ought to be presented in that order and then voted on seriatim.

DELEGATE BLOUNT: Mr. Chairman. Mr. Chairman --

DELEGATE HARRIS: But what you are doing here is that you are giving the minority report precedence over the committee's report and I think that is sort of a bad precedent for eight more committees to report.

DELEGATE BLOUNT: Mr. Chairman, I think it is a very simple matter, if I would move the adoption of the complete articles, we can still take it section by section and we can allow Brian to complete his business.

DELEGATE THOMAS: I second that. That is the way it should be.

DELEGATE BLOUNT: Okay, I move the adoption of the complete articles.

PRESIDENT CASSELL: Is there a second to that motion?

[The motion is made. There are several seconds.]

PRESIDENT CASSELL: Very good. It has been moved and seconded that we adopt the committee's report as a whole.

Now, discussion on that motion.

Delegate Eichhorn.

DELEGATE EICHORN: I move that we go through the committee report section by section.

[The motion is made and there is a second.]

DELEGATE JACKSON: Point of order, Mr. Chairman.

PRESIDENT CASSELL: Yes.

DELEGATE JACKSON: Will you now please state this decision clearly so that we will know exactly what it is so that we will not have to go through this again.

Will someone state it in a clear, concise manner?

PRESIDENT CASSELL: Okay, what we have done is -- let me restate this now -- is to have Delegate Blount move to adopt his report in the whole, to be dealt with section by section. This would allow the minority proposal to be considered as an amendment or a substitute for the whole.

SPEAKER: Section by section.

PRESIDENT CASSELL: Yes, actually, section by section.

DELEGATE JACKSON: Okay, thank you.

PRESIDENT CASSELL: Point of information.

DELEGATE JORDAN: Mr. Chairman, I would like to clarify one thing. I notice under the "minority proposals," it says you can -- may report a minority proposal -- that is Section 3.2 and it says that it may be offered as a substitute on the Floor or an amendment but then under Section 3.3, Section B) 2) there is a requirement that it appears that the minority report is an integral part of the total committee report and the time for presenting minority reports is encompassed in that 10 to 30 minutes which is an issue for the committee report and I just wanted to find out if my reading is correct if the --

PRESIDENT CASSELL: You are on page 12 B) 2)?

DELEGATE JORDAN: Yes, sir.

PRESIDENT CASSELL: Yes. Okay, what is your question, now?

DELEGATE JORDAN: No, what I am saying is, is the minority report a part of the total committee report and if such, is it limited --

PRESIDENT CASSELL: No.

DELEGATE JORDAN: I don't it on the page. It says that the report would be "may report the minority report." It does not say anything under Section 3.2 about the debating or discussion of it. It appears that it has to be a part of the

total committee's report. And if it is a part of the total committee's report, then is it subject to the same kind of a case -- is it included in the committee's report subject to the 10 to 30 minutes that the total committee gets for submitting its proposal?

PRESIDENT CASSELL: Mr. Parliamentarian.

Delegate Baldwin.

DELEGATE BALDWIN: The rules say that the first reading of a proposed article. That means the first reading of an article proposed by the committee. If you check, number one tells you who can present. It says, "The duty of explaining the intended provision shall be discharged only by a committee member in support of the provision in the committee," which means that a person with a minority report naturally did not support that provision so there is nothing in the rules that tells you other than 3.2 D) that tells you how to get a minority proposal on the floor.

That deals strictly with a committee proposal.

SECRETARY COOPER: Point of procedure.

PRESIDENT CASSELL: Yes.

DELEGATE BALDWIN: Mr. President, there is a motion on the floor.

SECRETARY COOPER: A point of procedure takes

precedence.

PRESIDENT CASSELL: Yes.

SECRETARY COOPER: Mr. President, as you pointed out earlier, Mr. Moore's minority report was submitted here in a timely fashion and it is part of the committee report, as laid out in our rules.

All minority reports become part of that committee's report and are read along with it and as Mr. Jordan pointed out, its time for debate, if any, should have been within those 10 to 30 minutes. However, there is nothing to preclude this from being in order as a proper substitute at this point.

DELEGATE BALDWIN: That's right. That is where we are now.

PRESIDENT CASSELL: Okay. Where we are now is that Mr. Blount has the motion on the floor to adopt his report as a whole to be debated section by section.

Mr. Blount, you have the floor.

DELEGATE ROTHSCHILD: Point of order, Mr. President.

I am concerned about two things. One, I am concerned that we cut debate off. But I am more concerned that we have never really officially placed a Parliamentary position.

We did that once very early in the convention with

a temporary Parliamentarian, Dan Lawson but --

PRESIDENT CASSELL: Your question is a germane question but it is out of order on this. You are talking about the structure of the convention. It is something that we need and don't have, right?

DELEGATE ROTHSCHILD: Point of order, point of order, that we have continually been referring to a individual as a Parliamentarian and it was spoken to earlier that the Chair was going to hire somebody to try to find somebody to be a Parliamentarian.

PRESIDENT CASSELL: I am afraid you are out of order, sir. That has nothing to do with this particular motion. You should be speaking to the motion.

DELEGATE ROTHSCHILD: It is right on point as to how we are dealing with this motion.

PRESIDENT CASSELL: The Chair has at all time the authority to appoint anybody as Parliamentarian.

DELEGATE ROTHSCHILD: Well, we don't have a Parliamentarian.

PRESIDENT CASSELL: I have already appointed the Delegate who has been acting in the absence and he is our Parliamentarian. It could be you, if I appointed you that, right?

DELEGATE ROTHSCHILD: Is that authority in the

rules, that you have the proper authority to appoint a Parliamentarian?

PRESIDENT CASSELL: I think so.

DELEGATE ROTHSCHILD: I don't.

DELEGATE BLOUNT: Mr. Chairman --

PRESIDENT CASSELL: Delegate Blount.

DELEGATE BLOUNT: Mr. Chairman, may we proceed with Delegate Brian Moore to make his --

[SEVERAL VOICES: Point of order. Point of order.]

DELEGATE ROTHSCHILD: What I want to say is that, continuing with my point of order, is that I think we should be careful that sometimes we are lax in the rules when it benefits some and --

PRESIDENT CASSELL: I understand that, you know, we have been. But it is really not on this motion.

DELEGATE ROTHSCHILD: Well, it was not on the motion but it is the general procedure and we do not have a Parliamentarian.

DELEGATE BLOUNT: Mr. Chairman, Delegate Eichhorn will withdraw her motion. We can vote to move our report section by section after we dispose of Mr. Moore's motion.

PRESIDENT CASSELL: I do not understand that. Say that again, now.

DELEGATE EICHHORN: I will withdraw my motion.

DELEGATE HARRIS: Eichhorn's motion would move it section by section.

DELEGATE BALDWIN: You can't do that.

Mr. Moore, would you please either offer an amended or a substitute motion to the motion that is on the floor?

That is all you can do. You may either offer an amended or a substitute motion to what is on this floor.

[Many comments from the body.]

PRESIDENT CASSELL: All right, the court reporter has indicated she is having difficulty hearing and distinguishing between those people speaking.

Okay.

DELEGATE BRIAN MOORE: Yes, Mr. President, I move to offer my proposal as a substitute motion to the motion on the floor and that it be addressed ad seriatim.

PRESIDENT CASSELL: All right.

DELEGATE CORN: Second.

[There is a motion and a second.]

PRESIDENT CASSELL: It has been moved and seconded that the substitute motion be offered as a whole, addressed ad seriatim. Is there any debate on that?

All in favor of.

Oh, Delegate Maguire. I didn't see you. I'm sorry.

DELEGATE MAGUIRE: I want to say -- I want to move that it not -- I want to speak against it. I want to vote against it.

PRESIDENT CASSELL: You may speak against it and vote against it.

Any further discussion on the motion on the Floor? The motion on the Floor is to amend and to take the amended motion ad seriatim.

Any further discussion?

SPEAKER: We are voting on it seriatim, right here.

SEVERAL VOICES: [Simultaneous comments, not transcribable.]

SPEAKER: We are voting whether we want to do it seriatime or whether we want to do it as a whole.

[Several persons disagree.]

PRESIDENT CASSELL: His motion was a whole motion and that is that his motion be accepted and that it be addressed ad seriatim. Wasn't that it?

DELEGATE BRIAN MOORE: I moved to substitute -- I moved my proposal as a substitute motion to the motion on the floor to address my proposal seriatim.

PRESIDENT CASSELL: And that it be addressed ad

seriatim. Okay.

SPEAKER: I move we divide the question.

PRESIDENT CASSELL: All right. Those in favor of dividing this question signify by saying aye.

[There is a chorus of ayes.]

Opposed?

[There is a chorus of noes.]

Abstain.

[There are a few abstentions.]

PRESIDENT CASSELL: All right. Very good.

SPEAKER: Point of information. What is going on?

[Laughter.]

PRESIDENT CASSELL: Delegate Cooper moved to divide the question.

SPEAKER: Divide the question?

PRESIDENT CASSELL: Divide the amended motion.

QUESTION: [Inaudible.]

PRESIDENT CASSELL: That is a good question because it was not necessary. It was already ad seriatim.

DELEGATE GRAHAM: Well, what we need to do is to carry through the motion on ad seriatim.

[Many loud side conversations -- not transcribable.]

[Side conference.]

PRESIDENT CASSELL: All right, now it is clear what the motion is. The motion had two parts to it, to adopt and to consider ad seriatim. That is what you voted to accept. That is to consider first of all to adopt and secondly, to consider ad seriatim.

DELEGATE BRIAN MOORE: Mr. President --

PRESIDENT CASSELL: Yes, sir.

DELEGATE BRIAN MOORE: I wanted to address it ad seriatim and hopefully, it will be approved as a whole. And then adopted.

[President raps gavel for order.]

PRESIDENT CASSELL: Ladies and gentlemen --

DELEGATE TALMADGE MOORE: Point of order. Point of order, Mr. President, point of order --

PRESIDENT CASSELL: Yes.

DELEGATE TALMADGE MOORE: Do we have a quorum? Do we have enough -- point of order, Mr. President.

DELEGATE HARRIS: Yes. Yes, we do.

DELEGATE BALDWIN: We have enough in the house. We have been checking. It is now quarter till eleven. It looks like we will be here until 1:00 o'clock in the morning.

PRESIDENT CASSELL: That is right. The last elevator is about to leave. I do not know whether we have

enough time to vote on this.

MANY VOICES: Point of order.

PRESIDENT CASSELL: All those in favor --

MANY VOICES: Point of order, point of order.

PRESIDENT CASSELL: Point of order.

DELEGATE GRAHAM: Yes, Mr. President, I talked with the elevator operator and she said she would stay later. I promised her that we would give her a stipend so I hope that people will honor that.

PRESIDENT CASSELL: There are specific rules that state that no expenses can be committed in the name of the Convention without the Convention voting on it.

[General protest and a collection is taken up.]

PRESIDENT CASSELL: Point of order.

DELEGATE CORN: We don't have a quorum.

PRESIDENT CASSELL: Delegate Schrag.

DELEGATE SCHRAG: Mr. President, Delegate Moore's right to make the proposed amendment -- offered amendment is not a subject for debate by this body or decision by the body. The adoption of it is way down the road. The only thing that can be on the floor at this time is the motion to consider it ad seriatim. We do not have to divide. Cooper's motion is not proper. All we have to do is decide whether we are going

to do it as a whole or seriatim. If we do it as a whole, we have one vote on the motion.

If it is down, then we go back to Blount and we can do the Judiciary Committee's articles.

PRESIDENT CASSELL: I believe you are wrong. His motion has nothing to do with his right to amend. He wants us to adopt and you can adopt or not, all right?

Of course. That motion was not his right -- his right to amend, to offer a motion to amend is unquestioned.

But his motion was to adopt and to consider ad seriatim.

I think it should be the other way around, to consider the motion ad seriatim and then to adopt. And he has a right to do both of those.

DELEGATE EICHHORN: Mr. President, may I offer a substitute motion at this time?

VOICE: We have already voted on this and it carried.

PRESIDENT CASSELL: You recall that we did vote on that. Right.

Okay, that motion having passed, there is -- it is now in order for Mr. Moore to speak to his motion. And I am going to suggest that we recess or that we adjourn tonight inasmuch as there is not time --

DELEGATE EICHHORN: Point of order. What motion passed?

[Side conversations and discussions.]

PRESIDENT CASSELL: Your point of order?

DELEGATE SCHRAG: Point of order. The motion to divide is not debateable.

PRESIDENT CASSELL: Yes.

Your point of order, Delegate Jackson?

DELEGATE JACKSON: The motion to divide is the motion that passed.

PRESIDENT CASSELL: The point has been made that the motion to divide is the motion that passed.

All right.

VOICE: What was the previous question?

PRESIDENT CASSELL: The previous question is to consider ad seriatim.

[Rapping for order.]

All of those in favor of considering Mr. Moore's motion ad seriatim, signify by saying aye.

DELEGATE BRIAN MOORE: Mr. President, would you clarify that now? What are we voting on?

PRESIDENT CASSELL: To consider your proposal.

VOICE: Call the question.

PRESIDENT CASSELL: All right, now, all those in favor of the motion to consider this proposal ad seriatim, signify by saying aye.

[There is a loud chorus of ayes.]

Those opposed?

[There is a loud chorus of noes.]

Abstain?

[There is no abstention.]

PRESIDENT CASSELL: Okay, the motion loses.

DELEGATE BRIAN MOORE: Mr. President, would you explain how this group voted in favor of addressing this motion ad seriatim and then it just voted again on the same motion?

PRESIDENT CASSELL: It voted first to divide, then --

DELEGATE BRIAN MOORE: No, it wasn't.

PRESIDENT CASSELL: Then they voted -- yes, they did -- then they voted to consider your proposals one by one. The division was between ad seriatim and adoption. Once they decided to consider those separately, then they decided to consider them one at a time. That is where we are now.

DELEGATE BLOUNT: Mr. Chairman, are we now on his main question?

PRESIDENT CASSELL: Right.

DELEGATE BLOUNT: To adopt or not adopt --

DELEGATE EICHHORN: I call the question.

DELEGATE BRIAN MOORE: Mr. President, could you --
[Side conferences and discussions.]

PRESIDENT CASSELL: All right, here is where we are now. We voted down considering it ad seriatim. The motion on the floor now is to adopt Mr. Brian Moore's substitute proposal.

DELEGATE BRIAN MOORE: In whole or in part?

DELEGATE EICHHORN: I move the question.

SEVERAL VOICES: In whole.

PRESIDENT CASSELL: In whole.

DELEGATE BRIAN MOORE: Mr. President --

DELEGATE EICHHORN: I'd like to call the question.

PRESIDENT CASSELL: Hold on.

DELEGATE EICHHORN: I call the question.

PRESIDENT CASSELL: All right, the question has been called. All those in favor of cutting off the debate --

SECRETARY COOPER: Point of order. Point of order.
We haven't had any debate on this. We have had no debate on the motion.

DELEGATE EICHHORN: Mr. President, point of order.

Point of order, Mr. President.

PRESIDENT CASSELL: Yes. You can't call the question when there has been no debate, Delegate Eichhorn.

DELEGATE EICHHORN: Having called the question, it seems to me under the Rules the Chair is now required to allow two people to speak for it and two people to speak against it and no more than four speakers. Two for and two against.

DELEGATE BRIAN MOORE: At least. At least.

PRESIDENT CASSELL: Yes but that still has nothing to do with your calling the question. You do not call the question before there has been any discussion at all.

All right, those in favor of the motion to adopt Mr. Moore's proposal --

DELEGATE BRIAN MOORE: Is there discussion on the matter?

PRESIDENT CASSELL: All right, discussion.

DELEGATE BRIAN MOORE: I would like to address this.

PRESIDENT CASSELL: All right, you may have the first address, sir.

DELEGATE BRIAN MOORE: Thank you.

PRESIDENT CASSELL: Quickly, please.

DELEGATE BRIAN MOORE: Do we have a quorum, Mr. President?

VOICE: Yes, we have a quorum.

PRESIDENT CASSELL: Mr. Moore.

DELEGATE BRIAN MOORE: I am going to address my motion. The President has indicated that I can address it.

The reason I submitted this minority report is I generally felt that our system has failed this community and the communities across this country and we have to make some significant changes in order for the common man to regain his sense of dignity and his sense of justice in this country.

I think everybody here agrees -- irregardless of what system we have -- that it costs money. It takes time and it is usually the man on the low end of the totem pole who ends up getting the worst deal.

We have a system that is controlled basically by a level of society that are professionals and of high income and unless we change the system to allow more citizen participation, to install a system that will enable the lower-income man to participate and to receive justice quickly, we are going to get worse rather than better.

And my hope was to allow this motion to be discussed on an individual basis and not as a whole because I

know that all of you have questions about certain areas and other ones you do not. So --

PRESIDENT CASSELL: Delegate Harris. Delegate Corn. Delegate Thomas. Delegate Harris.

DELEGATE CORN: Point of privilege, sir. Would you please restore order in the Convention Hall?

DELEGATE HARRIS: Mr. Chairman, I would like to speak against Delegate Moore's amendment for several reasons.

Number one is, as a member of the Judiciary Committee, he supported quite a few of the present proposals. One of the reasons why the Judicial Advisory Commission was established -- and he certainly concurred with the concern -- like any of us -- for wanting the people involved in the process and if you would look at his proposal, some of them might be rather different but most of them are pretty much along the line of the committee's proposal.

And those discussions and those concerns that he had regarding certain articles were incorporated, I think, in our drafting. And so I am asking that the body reject this substitute because much of what you have in front of you from the Judiciary Committee incorporates many of Mr. Brian Moore's desires and concerns for Judiciary.

PRESIDENT CASSELL: Gloria Corn.

DELEGATE CORN: I would like to thank Mr. Moore for a very thoughtful and thorough proposal that encompasses many idealistic points. However -- and with great chagrin -- I must say that some of his points such as a neighborhood court with a final review -- whose opinion will be final -- could be extremely deleterious to justice because unfortunately, when peers judge you who know you, they may not be judging you on the basis of your case. They may judge you on your personality or on whether or not they believe in what you do politically.

If they are tenant leaders, they will go with the tenant whether the tenant is right or wrong. If they are landlords, they may go with the landlord, right or wrong.

If they don't like you personally, they may vote against you even though your case has merit. I think that while Mr. Moore tries to reach out for a higher and greater goal than perhaps the committee tried for, unfortunately, it fell short and I think that it is the obligation of this body to support with amendments the committee's report which does in fact more closely attain that goal of justice, which we all seek in our new state. Thank you.

DELEGATE THOMAS: Mr. Chairman?

PRESIDENT CASSELL: Yes, Mr. Thomas.

DELEGATE THOMAS: Mr. Chairman, I rise to speak against Delegate Brian Moore's proposal for in coming to this Convention, I took an obligation to write a constitution and in writing the constitution, I had a lot of thoughts and I have learned a lot since I have gotten here.

And I want to say that I have learned to respect Mr. Moore to the utmost and we have been on the other sides of the fence sometimes.

But I think when you make a gentlemen's agreement, that you should stick by it and some of the things that we went through in this report that we got Mr. Moore to agree to them and I hope that Mr. Moore did not come here to sabotage this convention and that we could try -- all of us, to our utmost, to get a good constitution out of here that will be voted upon by the people.

That is the bottom line, Mr. Moore. We have got to get a constitution out of here that meets the approval of the people that sent us here. Somebody sent each and every one of us here to write a constitution, not to sabotage and disrupt.

And I am sorry -- as much as I like you -- that I have to vote against you but I have to. That is all I have to say.

PRESIDENT CASSELL: Delegate Maguire.

DELEGATE MAGUIRE: I can't be as polite.

Brian Moore, as a delegate from your ward, the disruption of this convention that you have done tonight is inexcusable.

It is very easy to work by yourself and I could have worked by myself --

MANY VOICES: Out of order. Out of order, Mr. Chairman.

DELEGATE CORN: Point of personal privilege. That is out of order and disrupts the dignity of this body.

PRESIDENT CASSELL: Thank you. Thank you.

[All Delegates burst into laughter and make remarks.]

DELEGATE MAGUIRE: Gloria, Gloria, you are next. You are next, Gloria. A promise.

PRESIDENT CASSELL: Ladies and gentlemen --
[Rapping gavel.]

DELEGATE MAGUIRE: In speaking then, to the motion, I would like to speak against it because the person was a member of the committee and if he couldn't work with the committee and did not get it adopted by the committee, it does not have the votes here and I am speaking against it because I respect the work of the committee.

PRESIDENT CASSELL: All right, we have had four against and one for. Is there anybody else for?

DELEGATE JACKSON: Point of order, Mr. Chairman.

PRESIDENT CASSELL: Point of order.

DELEGATE JACKSON: Because I think we are setting a dangerous precedent here. Whether or not one agrees with what a person has to say or not is not the point. Whether or not one agrees with everything in the report is not the point.

But we don't have the right in here to gangbuster people because we don't agree with them.

VOICE: Right on.

[Applause and cheers.]

PRESIDENT CASSELL: You are out of order. Please. Please.

DELEGATE MAGUIRE: [Disagrees -- inaudible.]

PRESIDENT CASSELL: Please.

DELEGATE JACKSON: May I just finish? So I think you are setting a dangerous precedent around these things.

PRESIDENT CASSELL: Who sets a dangerous precedent?

DELEGATE JACKSON: We were setting it.

DELEGATE MAGUIRE: [Not transcribable.]

PRESIDENT CASSELL: Let me interrupt you and indicate, we have been trying our best to present that all along.

If you haven't noticed --

DELEGATE JACKSON: No, you haven't because Chair has allowed people to get up and make attacks against people because they wanted to express their point of view.

PRESIDENT CASSELL: The Chair had not allowed and you may have noticed, if you paid attention, the Chair has made every effort to prevent anybody, including yourself, from being rude to or ridiculing anybody.

Now, we have four against and one for. Is there anybody else who would speak for? Rothschild.

DELEGATE ROTHSCCHILD: Yes. First of all, I really appreciate alternative proposals coming forth and I don't think they are necessarily meant to be disruptive.

I would like to ask Mr. Moore a question.

Could you, if it was difficult for me to understand the concept entirely of neighborhood courts and how lay persons - I don't understand how lay persons can effectively implement the law and that is the first thing I don't understand about your proposal. How would they be able to do that?

DELEGATE BRIAN MOORE: I think that many people agree that there is a lot of paperwork in our society, including the judicial system and we have gotten to the point now where examples of plea bargaining and for instance, the

Hinckley situation where he is pleading insanity -- the system does not allow for common sense.

And I think that on a neighborhood basis, with your peers or people from the community making judgments on minor problems in society, we have to have faith in the common sense of man and in the rights of the accused and if he does not agree with the neighborhood courts, he can appeal to a higher court but it will expedite matters. It will reduce costs and it will improve the efficiency and it will reduce the caseload in our system and I think all the way around, by allowing the citizens to participate and decide, it will improve matters.

DELEGATE ROTHSCHILD: Basically, I'd like to say that there are many elements that I approve of in your report and I would like to consider them --

PRESIDENT CASSELL: The elevators are about to go. Are we ready to vote on this now?

DELEGATE ROTHSCHILD: And I would like to say that I approve of lay persons being part of the system and therefore would like to consider it when we deal with the full committee's report and maybe having a layperson sit on the Supreme Court --

PRESIDENT CASSELL: All right, now --

DELEGATE ROTHSCHILD: I'd like to thank you,

Mr. Chairman, for not interrupting me while I am speaking and for giving me the opportunity --

PRESIDENT CASSELL: I am about to interrupt you right now.

DELEGATE ROTHSCHILD: Well, I would like to thank you for the time when you don't do it.

PRESIDENT CASSELL: In the interest of --

DELEGATE BRIAN MOORE: Mr. President, point of personal privilege. Number one -- there are two points and I am done.

Number one, there were other members of the committee that voted in favor of some of the points. I was not alone on many of the points.

Number two, I withdraw my motion.

PRESIDENT CASSELL: All right. Very good.

Is there a motion to adjourn?

[The motion is made to adjourn.]

PRESIDENT CASSELL: Second.

[There is a second.]

PRESIDENT CASSELL: I declare this Convention adjourned.

[Whereupon, at 11:01 o'clock p.m., the Convention was adjourned for the night.]